



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 28/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.11457 of 2020

Murugesan @ Nanjil Murugesan

... Petitioner/Accused - 1

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanniyakumari District.
(Crime No.31 of 2020)

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu, Senior Counsel for
M/s.A.K.Manickam, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.31 of 2020 on the file of the
Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to Judicial
Custody on 29.07.2020 for the offences punishable under Sections 3
(a), 4, 7, 8, 11(iii), 12 and 17 of POCSO Act in crime No.31 of 2020
on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the victim girl, who is
aged about 17 years was sexually assaulted by the petitioner and
others. Further it is alleged that the victim girl eloped with one
Robin. On the complaint lodged by the her father, the victim girl
was secured and her statement was recorded under Section 164 Cr.P.C.
Based on the statement, another case has been registered in crime
No.31 of 2020 in which the petitioner herein and others arrayed as
accused. The petitioner and others with the help of the victim
girl's mother, sexually assaulted her for the past three years and
committed the crime.



3.Mr.V.Kathirvelan, learned Senior Counsel appearing for the petitioner would submit that the petitioner is arrayed as first accused. He is an Ex-M.L.A. of Nagercoil Assembly. Victim girl's family is known to the petitioner. While being so, when the victim girl fell in love with one Robin, as such, she also eloped with him on 16.07.2020. Therefore, the father of the victim girl lodged the complaint and based on the said complaint, a case in crime No.27 of 2020 was registered and thereafter, she was secured from the said Robin and he was also arrested. Therefore, the petitioner is nothing to do with alleged prosecution. Only because of the previous motive, the petitioner herein was arrayed as accused.

4.The learned Senior Counsel would further submit that even according to the prosecution, the occurrence took place before three years from the date of present occurrence. The petitioner was arrested and remanded to judicial custody on 29.07.2020. After completion of 90 days, the respondent police did not complete the investigation and did not file any final report and therefore, the petitioner is entitled for default bail.

5.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that there are totally five accused, in which, the petitioner is arrayed as A1. It was a pathetic case that the own mother of the victim girl compel her to have physical relationship with other accused persons for money. In fact, she also had intimacy with other accused persons. It was happened for the past three years and as such, the victim girl informed the same to the said Robin. Therefore, only to escape from the accused persons, she eloped with the said Robin. Since she is only aged about 17 years old, her father lodged a complaint. On the said complaint, a case in crime No.27 of 2020 was registered and victim girl was secured and her statement was recorded under Section 164 Cr.P.C. The statement revealed that the petitioner and other accused persons have sexually assaulted the victim girl for the past three years with the help of her own mother. The petitioner and other accused have committed very serious offence and hence, the learned Government Advocate(Crl.side) vehemently opposed to grant bail to the petitioner.

6.It is seen that the victim girl is aged about 17 years. The petitioner and other accused persons had sexually assaulted her for the past three years with the help of her own mother. While that being so, the victim girl, only to escape from the sexual assault, eloped with one Robin. On the complaint lodged by the father of the victim girl, a case was registered in crime No.27 of 2020 and victim girl was secured and her statement was recorded under Section 164 Cr.P.C. The statement clearly revealed that the petitioner and other accused persons have sexually assaulted with the help of her own mother. Only to escape from the assault, the victim girl eloped with one Robin. Therefore, the respondent police rightly



registered another case in crime No.31 of 2020 as against the petitioner and others.

7.The petitioner is an Ex-M.L.A. and he is a socially responsible person, but unfortunately, he committed very serious and heinous offence, that too against the minor girl with the help of her own mother. Therefore, this Court is not inclined to grant bail to the petitioner. At this juncture, the learned counsel appearing for the petitioner would submit that the charge sheet has not been filed, after completion of 90 days. Therefore, the petitioner is at liberty to file default bail before the Court concerned. Accordingly, this criminal original petition is dismissed.

sd/-
28/10/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL,
KANNIYAKUMARI DISTRICT.
- 2 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.11457 of 2020
Date :28/10/2020

MS/PN/SAR-2/03.11.2020/3P.4C